

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION

LOUIE LYBYER

PLAINTIFF

v.

CIVIL NO. 06-5106

MICHAEL J. ASTRUE,<sup>1</sup> Commissioner  
Social Security Administration

DEFENDANT

**JUDGMENT**

Now on this 17th day of May, 2007, comes on for consideration the Report and Recommendation dated April 25, 2007, by the Honorable James R. Marschewski, United States Magistrate Judge for the Western District of Arkansas. Ten (10) days have passed without objections being filed by the parties. The Court has reviewed this case, and being well and sufficiently advised, finds that the Report and Recommendation is proper and should be adopted in its entirety. Accordingly, the Court hereby adopts the Report and Recommendation; reverses the decision of the Commissioner; and remands this case to the Commissioner for further consideration pursuant to sentence four of 42 U.S.C. § 405(g).

If plaintiff wishes to request an award of attorney's fees and cost under the Equal Access to Justice Act (EAJA) 28 U.S.C. § 2412, an application may be filed up until 30 days after the judgment becomes "not appealable" i.e., 30 days after the 60-day time for appeal has ended.

*See Shalala v. Schaefer*, 509 U.S. 292, 296, 113 S.Ct. 2625 (1993); 28 U.S.C. §§ 2412(d)(1)(B),(d)(2)(G).

IT IS SO ORDERED.

/s/Jimm Larry Hendren  
HON. JIMM LARRY HENDREN  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup>Michael J. Astrue became the Social Security Commissioner on February 12, 2007. Pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure, Michael J. Astrue has been substituted for acting Commissioner Jo Anne B. Barnhart as the defendant in this suit.